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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3036 OF 2003

Dashrath Dagdoba Sondkar & ors. Petitioners
versus
Smt.Alka Gopal Veer & another Respondents

Mr.Uday Warunjikar for petitioners.

CORAM : A.S.OKA, J.

DATE : 02nd April 2007

PC :

1. Heard Shri Warunjikar for the petitioners. By the impugned judgement and order dated 10th February 2003, the learned Additional District Judge, Satara has allowed an appeal preferred by the second respondent and has allowed the application at Exhibit-5 preferred by the second respondent by granting temporary injunction against the petitioners restraining them from committing encroachment over the suit land and making permanent construction besides the portion which has already been in their possession as shown in the map drawn by the DILR..

2. Initially on 28th April 2003, this Court passed an ad-interim order directing both the parties to maintain status-quo. As a result of subsequent dismissal of the writ petition, now for a considerable period of time, there is no ad-interim order operating in favour of the petitioner.

3. Apart from the aforesaid aspect, the order impugned is a discretionary order of temporary injunction which will operate till final disposal of the suit. The order is passed on the basis of prima facie consideration of the material on record. At this stage, no interference is called for with the discretionary order passed by the Appellate Court.

4. Shri Warunjikar submits that existing structure needs repairs and the order of temporary injunction may come in way of the petitioners in carrying out repairs. Though the petitioners have been restrained from making permanent construction, it is always open for the petitioners to apply to the Trial Court for necessary directions after setting out the nature of repairs which the petitioners desire to carry out.

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5. Subject to what is stated above the writ petition is rejected. If an application as mentioned above is made by the petitioners, the Trial Court will decide the same within a period of four weeks from the date of filing of the application. All contentions of the parties in the pending suit are expressly kept open. All concerned to act on an ordinary copy of this order duly authenticated and issued by the Registry of this Court.

(A.S.OKA, J.)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION (STAMP) NO.18642 OF 2004
IN
WRIT PETITION NO.3036 OF 2003

Dashrath Dagdoba Sondkar & ors. Applicants
versus
Smt.Alka Gopal Veer & others Respondents

Mr.Uday Warunjikar for applicants.

CORAM : A.S.OKA, J.

DATE : 02nd April 2007

PC :

1. Heard Shri Warunjikar for the applicants. A case for restoration of the writ petition is made out. Civil application is allowed in terms of prayer clause (a).

(A.S.OKA, J.)